

III. GENERAL REQUIREMENTS FOR SUBMITTING CDBG PUBLIC FACILITIES APPLICATIONS

To be eligible for an award of CDBG funds, applicants must comply with the following general requirements. Local officials having any concerns or questions regarding these general requirements should contact the MDOC CDBG staff for guidance as early as possible in the process of preparing an application. Special requirements unique to Housing or Public Facility projects are described in the application guidelines for each category. **The application information required to be included in applications is found at the back of the Guidelines for the Housing and Neighborhood Renewal or Public Facility categories. See Appendix D.**

A. ELIGIBLE APPLICANTS

Under federal law, eligible applicants for CDBG funding are limited to general-purpose local governments, i.e., counties, incorporated cities and towns, and consolidated city-county governments. Among Montana municipalities, only Billings, Great Falls, and Missoula are ineligible to apply to the State CDBG Program because they receive CDBG funds from a separate HUD allocation for communities with populations over 50,000. Montana's Indian tribes also receive CDBG funds from a separate HUD CDBG Program and are not eligible to apply directly to the State program. (For more information regarding the Indian CDBG program, please contact the Office of Native American Programs at the HUD – Denver, Colorado regional office (303) 672-5465 <http://www.hud.gov/offices/pih/ih/onap/headquarters.cfm>.) However, counties can apply for projects to assist unincorporated communities or tribal utility authorities within a reservation boundary. (See next page.)

Special purpose agencies or organizations such as local economic development corporations, housing authorities, community housing development organizations (CHDO's), or water or sewer districts, are not eligible to apply directly. Likewise, private, non-profit organizations such as human resource development councils, area agencies on aging, or hospital associations are not eligible to apply directly. In these cases, a county or municipality must apply for CDBG funds on their behalf. If the application is funded, an interlocal agreement must also be executed between the local government and the special purpose agency or organization clarifying project responsibilities.

1. County Applications

For projects proposed to resolve problems in the unincorporated jurisdiction of a county, the county governing body is the eligible applicant. A county may apply for a project that will include activities within the jurisdiction of an incorporated city or town if the proposed activity is intended to benefit all county residents, including those located in the unincorporated jurisdiction of the county, as well as those within the city or town.

To improve cost-effectiveness for project administration, a county may apply for a grant for a project that would address the same category of community need in two or more separate unincorporated communities, as long as the total grant request is under the established ceiling. For example, a county can apply for a project that would provide public facilities for two unincorporated communities or a project that would conduct housing activities in two unincorporated communities. **If considering such a project, the applicant county would want to be sure that the involved communities have an equally high level of need and that the proposed response is equally appropriate and would achieve comparable impact on the needs of each community; if not, the application as a whole could be less competitive.**

County Water and Sewer Districts

Water or sewer users associations, because they are private, nongovernmental entities must first be established as county water or sewer districts (pursuant to Title 7, Chapter 13, Parts 22 and 23, MCA) before making an application for CDBG funds through a county government.

In limited circumstances, counties can apply for funding without the proposed project area being established as a county water and sewer district. To be eligible, the proposed area where the project would take place would be required to be connected to an existing or proposed system owned and operated by an incorporated municipality or a county water and sewer district. In addition, the municipality or county water and sewer district must provide a written commitment that it will assume responsibility for the long-term operation and maintenance of the proposed improvements upon completion of the project.

Incorporated municipalities can apply for funding for an area outside a city or town without the proposed project area being established as a county water and sewer district, provided the applicant municipality states its intent to annex the proposed area to be connected to the municipality's system by a specified future date. The municipality must provide a written commitment stating its intent to assume responsibility for the long-term operation and maintenance of the proposed improvements.

An example of this situation would be where a proposed project area is adjacent to a municipality or a county water and sewer district, and the proposed project area is not prepared or could not be annexed or included within the boundaries of the municipality or a county water and sewer district during the term of the CDBG project. In this example, a rural special improvement district (RSID) would be created to assist with the financing of the project, so that those properties benefited by the improvements are paying for the improvements. Since a RSID is not eligible to apply for funding, the city would apply on its behalf.

Proposed improvements to stand-alone independent rural water or sewer systems that are to be entirely operated and maintained through an RSID must first be legally created as a county water and sewer district before an application to CDBG may be submitted.

Montana Counties Can Now Submit Applications on Behalf of Tribal Utility Authorities

Since 1982, Montana's CDBG Program has been providing infrastructure, affordable housing, and economic development assistance to Montana incorporated cities, towns, and counties. This assistance has included funding for incorporated communities located within Montana's tribal reservations, such as Browning, Lodge Grass, and Poplar. The CDBG program has also assisted county water and sewer districts located on reservations, such as the Ashland Water and Sewer District where Rosebud County agreed to sponsor the project.

Recently, Big Horn County has been actively involved in establishing a tribal utility authority on the Crow Reservation. The tribal utility authority would have powers similar to those exercised by a city, town or water and sewer district; namely, the ability to set user rates and charges, and provide for the construction and maintenance of improvements for residents.

In the spring of 2005, under the Treasure State Endowment Program (TSEP), the Legislature approved \$500,000 for improvements to Crow Agency's wastewater collection system (Crow Agency is an unincorporated community). This fall members of the Crow Tribe stressed that tribal utility authorities may need State CDBG program assistance for water and wastewater system improvements, in addition to funds from TSEP, USDA Rural Development, and other federal and state funding sources.

Under federal law, only general purpose local governments can apply to the State CDBG Program: cities, towns, and counties. To date, the Montana CDBG Program has never assisted a tribal utility authority. As a follow-up to the tribal request and consistent with Governor Schweitzer's efforts to enhance communication and cooperation between Montana State government and Montana's Indian Tribes, the CDBG Program proposed this year, as part of its administrative role process, that counties be permitted to submit applications on behalf of tribal utility authorities.

Allowing the State CDBG Program to fund tribal utility authorities would provide an additional means to meet the needs of Montana's tribal communities. On October 25, 2005, at Montana's request, HUD clarified that it is permissible, under federal law, for a county CDBG recipient to assist projects principally benefiting county residents who are members of an Indian Tribe. When members of an Indian Tribe are also residents of a county, that county can use CDBG funds to assist public facilities or services predominantly used by Indians, including those who live on Indian reservations or on allotted Indian land.

The Montana State CDBG Program will now allow State CDBG funds to be awarded to counties that apply on behalf of tribal utility authorities to assist tribal communities, providing all other federal and state CDBG requirements are met. All such applications will be considered during the regular grant competition for public facilities applicants.

2. Municipal Applications

For projects proposed to resolve problems within the jurisdiction of an incorporated city or town, the city or town governing body is the eligible applicant. A municipality may apply for a project which would include an activity to be located outside city limits if the proposed activity will principally benefit residents within the city's jurisdiction, such as a solid waste disposal site or a water or sewage treatment facility. A municipality may also apply for a project in a geographic area that is located outside the city's jurisdiction if it can provide adequate assurances that the project area will be proposed for annexation within the term of the CDBG project or within a reasonable period of time after completion of the CDBG project.

Coordinated Applications

Two or more eligible applicants may apply independently for projects that, if funded, would be administered in a coordinated manner. An example would be a regional water system that involves more than one jurisdiction. In this case, each applicant would be able to apply for the maximum grant allowed, \$450,000.

Applications On Behalf of Sub-recipient Entities

Public housing authorities and non-profit organizations, such as human resource development councils or hospital associations, may manage CDBG projects and own and manage CDBG-assisted property. Private, for-profit organizations can also receive CDBG funds under special conditions. Non-profit organizations must have an Internal Revenue Service 501(c)(3) or 501(c)(4) non-profit designation to be an eligible subrecipient of CDBG funds.

B. NUMBER OF APPLICATIONS PERMITTED PER APPLICANT

Unless otherwise prohibited by the provisions of Section C below, each eligible local government jurisdiction may submit one application for a Planning grant, one application for a

Public Facilities grant, and one application for a Housing and Neighborhood Renewal grant for each federal fiscal year's CDBG program. Communities that receive funding are ineligible to receive additional funds within the category assisted (housing, public facilities, and planning) until the project is substantially completed as described in Section C below.

For the purposes of this requirement, consolidated city-county governments will be considered as two separate jurisdictions: one, the former city jurisdiction and two, the former unincorporated jurisdiction of the county. For application purposes, the city and county boundaries as delineated on the date of consolidation will define the jurisdiction of each. Applications for city and county jurisdictions must conform to the requirements for municipal and county applications set out in Section A., "Eligible Applicants."

C. RE-APPLICATION

COMMENT: Congress and HUD continue to place pressure upon CDBG recipients to expend funds more quickly. The CDBG guidelines require that the older the fiscal year of the original grant award, the higher the percentage of expended funds must be in order to be able to re-apply. This system provides an incentive for CDBG recipients to complete their current projects as expeditiously as possible in order to be able to re-apply for additional CDBG funding.

Current grantees must meet the percentage completion targets described below for any project they currently have underway within the category being applied for before they can re-apply to the CDBG program. This means that a local government which had just received a Public Facility grant in the spring competition, would still be eligible to apply for and receive a Housing and Neighborhood Renewal grant in the same year's fall grant competition.

In response to concern by HUD and Congress that CDBG projects be completed as soon as possible, eligibility for reapplication is based upon the percentage of completion based on the fiscal year of grant award.

- a. A previous recipient of a CDBG award under either the Housing and Neighborhood Renewal or Public Facilities category is not eligible to reapply until the following conditions have been met for any current grant within the category being applied for:

For the May, 2006 CDBG grant competition for Public Facilities (FFY 2007 funds), the following spend down requirement applies:

FY 2006 grantees -	CDBG non-administrative funds 75% drawn or activities completed by the date of application.
FY 2005 grantees -	CDBG non-administrative funds 90% drawn or activities completed by the date of application.
FY 2004 grantees -	CDBG non-administrative funds 100% expended and project completion report submitted by the date of application.
FY 2003 grantees and all earlier years -	Project closed out (conditional or final) by the date of application and audit scheduled by the date of application

- b. To be eligible to apply, a previous recipient of a CDBG award must:

- (1) Be in compliance with the project implementation schedule contained in its CDBG contract with MDOC for any current grant awarded under either the Public Facilities or Housing and Neighborhood Renewal category, and
- (2) Not have any unresolved audit or monitoring findings related to any previous CDBG grant award.

D. NUMBER OF GRANT AWARDS PERMITTED PER JURISDICTION

During any program year, a local government jurisdiction may be awarded a maximum of two grants, one from the Public Facilities category and one from the Housing and Neighborhood Renewal category. In addition, each local government may be awarded one planning grant each year; however, those governments with a current CDBG planning grant are ineligible to apply for an additional planning grant until their current planning project is completed and closed out.